

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/25/2023

LARRY FULLEWELLEN,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

1:21-cv-7219-MKV

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff Larry Fullewellen, proceeding *pro se*, initiated this action by filing a complaint on August 26, 2021. [ECF No. 1.] The City of New York filed a motion to dismiss on March 14, 2022. [ECF No. 17.] On March 7, 2023, the Court issued a Memorandum Opinion and Order, granting the City's motion to dismiss. [ECF No. 27.] The Court directed Plaintiff to file any amended complaint within 30 days and directed that the Opinion and Order be mailed to the *pro se* Plaintiff at the address of record. [ECF No. 27.] No amended complaint was filed. Instead, the Memorandum Opinion and Order was returned to this Court as undeliverable because Plaintiff apparently "Transferred State[s]."

Because no amended complaint was filed, on April 20, 2023, the Court issued an Order to Show Cause, again directing Plaintiff to file "an amended complaint and a letter showing cause why this case should not be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure." [ECF No. 28.] The Court noted that "**Plaintiff is on notice that he is ultimately responsible for prosecuting his case, and failure to comply with this Order and to prosecute his case will result in dismissal of this action.**" [ECF No. 28.] No letter was filed.

Because mail sent to the *pro se* Plaintiff has been repeatedly returned as undeliverable over the course of this litigation, the Court is unsure if the Plaintiff has received the Memorandum

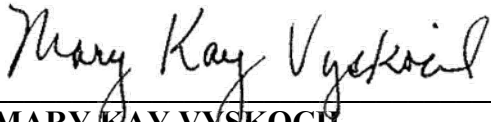
Opinion and Order or, for that matter, any other Orders of this Court. At the start of this litigation, the Court informed the Plaintiff that he “must notify the Court in writing if Plaintiff’s address changes, and the Court may dismiss the action if Plaintiff fails to do so.” [ECF No. 6].

Plaintiff has not updated his address, responded to Orders of this Court, or taken any other action to prosecute this case. Accordingly, IT IS HEREBY ORDERED that the above-captioned action is dismissed without prejudice for failure to prosecute without costs to any party. *See LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)); *see also Anderson v. Annucci*, No. 17-CV-07973 (VSB), 2020 WL 1082393, at *2 (S.D.N.Y. Mar. 6, 2020) (dismissing *pro se* plaintiff’s complaint for failure to prosecute after plaintiff failed to update his address on the docket).

The Clerk of Court is respectfully requested to mail a copy of this Order to the *pro se* Plaintiff at the address of record and to close this case.

SO ORDERED.

**Date: May 25, 2023
New York, NY**



MARY KAY VYSKOCIL
United States District Judge